

REMARKS

Claims 2, 4, 5, 11-25, 27, 30, 31, 33 and 39-41 have been amended and claims 1, 26, 28 and 38 have been canceled without prejudice. Claims 2-25, 27, 29-37 and 39-41 are pending in the application. Claims 3, 9, 10, 29 and 34-37 are indicated (Summary; p. 16, item 9 and p. 17, item 10) to be allowed and claims 39-41 are indicated (Summary; p. 17, items 9.1 and 10) to contain allowable subject matter. Reconsideration of the application is requested in view of the amendments and the remarks to follow.

Request for Clarification:

No rejection of or objection to claims 11 and 17 is present in the Office Action. The Office Action is silent with respect to the status of claims 11 and 17. Accordingly, Applicant has amended claims 11 and 17 to place them in independent form and respectfully submits that they are in condition for allowance. In the event that the Examiner determines that these claims are not allowable, the Examiner will need to present grounds for rejection in a non-Final Office Action.

Allowable Subject Matter:

Claims 3, 9, 10, 29 and 34-37 are stated (Summary; pp. 26, 17) to be allowed, and claims 39-41 are stated (p. 17) to be objected to and thus are allowable if rewritten in independent form, including the recitation of the base claim and any intervening claims. Claims 39-41 have been so re-written and thus are allowable. Claims 2, 4, 5, 12-16, 18-25, 27, 30, 31 and 33 have been amended to depend from allowable claims and claims 6-8, 32 and 38 depend from allowable claims. Accordingly, the pending claims are allowable over the art of record.

Rejection under 35 U.S.C. §103:

Claims 1, 2, 4-8, 12-16, 18-28, 30-33 and 38 stand variously rejected under 35 U.S.C. 35 U.S.C. §103(a) over various combinations of U.S. Patent No. 5,668,995 to Bhat (hereinafter "Bhat"), U.S. Patent No. 6,108,800 to Asawa (hereinafter "Asawa"), U.S. Patent No. 6,301,615 to Kutcher (hereinafter "Kutcher"), U.S. Patent No. 5,838,919 to Schwaller et al. (hereinafter "Schwaller"), U.S. Patent No. 6,209,033 to Datta et al. (hereinafter "Datta") or "NETCAP: A Tool For The Capacity Planning Of Ethernet LANS" by L. Vekiarides et al. (hereinafter "Vekiarides"). Applicant respectfully submits that claims 1, 2, 4-8, 12-16, 18-28, 30-33 and 38 are not unpatentable over the cited references and requests reconsideration.

However, in the spirit of cooperation and in order to advance the prosecution of the application, Applicant has amended the claims to place them in allowable form. Applicant reserves the right to pursue the subject matter of the claims that have been canceled. Accordingly, the rejections are moot.

Conclusion

Claims 2-25, 27, 29-37 and 39-41 are in condition for allowance. Applicant respectfully requests reconsideration and issuance of the subject application. Should any matter in this case remain unresolved, the undersigned attorney respectfully requests a telephone conference with the Examiner to resolve any such outstanding matter.

Respectfully Submitted,

Date: Apr. 1, 2004

By: 

Frederick M. Fliegel
Reg. No. 36,138
(509) 324-9256 x239